IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE FOURTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL No. 192 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 03/09/2004 in WP No. 23269 OF 2000 on the file of the High Court.)

Between:

Kasani Venkanna, s/o late K.Mattaiah,
r/o H.No.14-110 (New No.14-168), Huzur Nagar (Vill. & Mandal), Nalgonda District.

..... APPELLANT

AND

1.The Executive Officer, o/o Gram Panchayat, Huzur Nagar Vill & Mandal, Nalgonda District.
2.The Divisional Panchayat Officer, Miryalaguda Division at Miryalguda, Nalgonda District.
3.The District Collector (FW), rep., by its Dist.Panchayat Officer, Nalgonda District at Nalgonda.
4.The Commissioner of P.R. & RE., Government of A.P., Urdu Hall Lane, Himayatnagar, Hyderabad.

.....RESPONDENTS

Counsel for the Appellant: Mr. B.SAI RAM GOUD

Counsel for the Respondent No.1: Smt. Jyothi Eswar Gogineni

Counsel for Respondents 2 to 4: G.P. for Panchayat Raj.

The Court made the following :

ORAL JUDGMENT:

(per Honourable Sri Devinder Gupta, the Chief Justice)

We have heard learned counsel for parties.

Learned Single Judge dismissed the writ petition of the appellant on the ground that the appellant has no title to the land, and, the respondent-Gram Panchayat was justified in putting the subject property to public auction.

The petitioner in the Writ Petition prayed for issuance of a Writ directing the respondents not to conduct public auction of 32 sq. yards of open space attached to H. No. 14110 (New No.14-168) in Ward No. 14 and to declare that this 32 sq. yards of land belongs to the petitioner and respondents 1 to 4 have no title or interest. In the writ petition, there was an interim order passed on 29.11.2000 directing the Gram Panchayat to pass appropriate orders on the petitioner's representation and consider the same and permit the petitioner also to deposit the up set price fixed by the Gram Panchayat in two instalments.

The sole basis of the petitioner's claim is that when there was a dispute as regards the title in respect of 32 sq. yards of land, the Gram Panchayat had passed a resolution on 24.2.1988 on the representation of the petitioner's father and the Gram Panchayat admitted that the said land belonged to the petitioner's father. Thereafter no steps were taken to take possession and it never vested in the Gram Panchayat.

To this ground raised by the petitioner, there is a specific allegation in the counter that the document produced by the petitioner is fabricated one, inasmuch as there was no meeting of the Gram Panchayat. It is also stated that meetings of the Gram Panchayat were conducted only in January, 1988 and April, 1988 and at no meeting, the issue as regards 32 Sq. Yards was discussed or resolved nor any application dated: 5.2.1988 was filed by the father of the writ petitioner-appellant. It is also stated that no enquiry was conducted.

In this view of the matter, this being a highly disputed question of fact, there cannot

be any adjudication by this Court in exercise of its writ jurisdiction. It is for the petitioner to prove his case that he is the owner and in possession of the land on the basis of any material or documents of title. When the very resolution is disputed by the Gram Panchayat that it never took place, it will not be possible now to believe the petitioner's version since the petitioner was not a party to the resolution nor any material is produced relating to the resolution. Therefore, there is nothing wrong in the respondents proceeding with the auction. In case, petitioner-appellant is so interested, he can always take part in the auction, and, there is no manner of doubt that, in case, petitioner-appellant is declared as the highest bidder, the amount deposited by the petitioner will be duly taken into consideration.

We find no merit in this Appeal, which is dismissed. No costs.

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DEVINDER GUPTA, C.J.

14.3.2005.

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B.SESHASAYANA REDDY, J.

VR.

To

1.The Executive Officer, O/o Gram Panchayat, Huzur Nagar Village & Mandal,

Nalgonda District.
2.The Divisional Panchayat Officer, Miryalaguda Division at Miryalguda, Nalgonda District.
3.The District Collector (FW), rep., by its Dist.Panchayat Officer, Nalgonda District at Nalgonda.
4.The Commissioner of P.R. & RE., Government of A.P., Urdu Hall Lane, Himayatnagar, Hyderabad.

5. Two CCs to Government Pleader for Panchayat Raj and Rural Development, High Court Buildings, Hyderabad.(OUT).

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